

**BEFORE THE MINNESOTA
EMERGENCY MEDICAL SERVICES REGULATORY BOARD**

In the Matter of the certification of
Dale Eickelberg, EMT-P
Certificate Number: 220170

**STIPULATION AND
CONSENT ORDER**

STIPULATION

IT IS HEREBY STIPULATED AND AGREED, by and between Dale Eickelberg, EMT-P (“Respondent”) and the Complaint Review Panel (“Review Panel”) of the Minnesota Emergency Medical Services Regulatory Board (“Board”) that the above-referenced matter may be resolved without trial of any issue or fact as follows:

I.

JURISDICTION

1. During all times material herein, Respondent has been and now is subject to the jurisdiction of the Board by which he was issued a certificate as an Emergency Medical Technician - Paramedic (“EMT-P”).

II.

CONFERENCE

2. On December 15, 2008, Respondent and his attorney, Bruce P. Grostephan, Esq., appeared before the Review Panel to discuss allegations contained in a Notice of Conference dated November 5, 2008. Karen Andrews, Assistant Attorney General, represented the Review Panel at the conference.

III.

BACKGROUND

3. On February 20, 2008, Respondent and his attorney met with the Review Panel to discuss allegations contained in a Notice of Conference dated February 1, 2008. The Notice of Conference alleged that Respondent acted in an “aggressive, unprovoked, unnecessary, and excessive” manner during a physical confrontation with a patient in September 2007. On June 18, 2008, the Board adopted a Stipulation and Consent Order (“June 2008 Consent Order”) which suspended Respondent’s EMT-P certification for one year, but stayed the suspension upon Respondent’s compliance with the terms and conditions of the June 2008 Consent Order.

IV.

FACTS

4. For purposes of this Stipulation and Order only, the Board may consider the following statements as true:

a. On June 18, 2008, Respondent was driving an ambulance in Minneapolis, Minnesota in evening rush-hour traffic. A vehicle pulled in front of the ambulance, requiring Respondent to sharply apply the brakes. Respondent applied the air horn and siren and when the vehicle stopped at a red light in front of the ambulance, the following occurred:

i. Respondent opened the driver’s door and attempted to get out of the ambulance while it was still moving. Respondent’s partner asked him what he was doing and informed him the ambulance was not stopped. Respondent got back in the driver’s seat, placed the ambulance in “park” and exited the ambulance completely, despite his partner stating, “We have a run.”

ii. Respondent approached the driver's door of the other vehicle and hit the vehicle with his open hand. While standing next to the driver's door, Respondent began yelling at the other driver.

iii. Respondent placed his head inside the other vehicle through the open driver's-side window while he was yelling at the other driver.

iv. Respondent struck the side of the other vehicle four to five times with the side of his closed fist as he walked back to the ambulance, which was parked directly behind the vehicle.

v. Upon returning to the ambulance, Respondent stated to his partner, "he said he used his turn signal." Respondent's partner replied, "we need to respond to this run."

vi. Upon moving the ambulance, Respondent used the air horn and siren as he drove past the other vehicle.

b. In an incident report, and during an investigative meeting on June 25, 2008, Respondent stated he used the palm of his hand to hit the top of the vehicle to get the other driver's attention and then stated to the driver, "What the hell are you doing, I almost rear-ended you." Respondent stated he then questioned the other driver as to why he cut the ambulance off, and the other driver responded that he had used his turn signal. Respondent indicated he told the other driver that it is not easy to stop a large vehicle quickly and he should pay closer attention to the traffic around him. Respondent stated this conversation lasted one or two minutes. According to Respondent, he then returned to the ambulance and waited for the light to turn green. Respondent stated the run came up on the MDT while he and his partner were waiting for the light to turn green. Respondent admitted he should have stayed in the ambulance and should not have confronted the other driver.

c. Following an internal investigation, Respondent's employer concluded that Respondent's behavior on June 18, 2008 was unprofessional, likely resulted in a delay in responding to a run assignment, placed Respondent and his partner in an unnecessary and potentially dangerous situation, and constituted a further violation of the employer's Conduct Necessitating Discipline Policy.

d. On June 27, 2008, Respondent's employer sent him a notice of intent to dismiss him from his paramedic position. Subsequently, Respondent chose to resign in lieu of termination.

e. During the conference with the Review Panel and in his written response, Respondent denied the allegations in paragraphs 4.a.i and 4.a.iv., above. Respondent also stated the call did not come in until he returned to the ambulance. Respondent admitted the other conduct, but stated the confrontation lasted no more than 20 seconds. Respondent indicated that stress from his personal life contributed to the situation, and stated he has attended some anger management counseling and hypnotherapy sessions.

V.

LAWS

5. Respondent agrees that the conduct cited in paragraph 4, above, if proven, would constitute grounds for the Board to revoke, suspend or otherwise act against Respondent's certificate. *See* Minn. Stat. § 144E.28, subd. 5(a)(5) (2008).

VI.

DISCIPLINARY ACTION

The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

6. The Board hereby **RESCINDS** the June 18, 2008 Stipulation and Consent Order, which shall have no future force or effect.

A. Suspension

7. The Board **SUSPENDS** Respondent's EMT-P certification. Respondent shall not provide emergency medical services and shall not imply by words or conduct that Respondent is authorized to provide such services.

8. Respondent shall surrender to the Board his EMT-P certificate. Respondent shall personally deliver or mail the certificate to the Minnesota Emergency Medical Services Regulatory Board, c/o Rose K. Olson, 2829 University Avenue S.E., Suite 310, Minneapolis, Minnesota 55414, within ten days of the date of this Order.

B. Removal of Suspension

9. Respondent may petition for removal of the suspended status following six months from the date of this Order. The burden of proof shall be upon Respondent to demonstrate by a preponderance of the evidence that he is capable of providing emergency medical services in a fit and competent manner. At the time of Respondent's petition, Respondent shall meet with a Review Panel. The meeting with the Review Panel shall be scheduled after Respondent has complied with, at a minimum, the following:

a. Self-Report. Respondent shall submit to the Board a report from Respondent himself. The report shall be submitted at the time Respondent petitions for reinstatement of his certificate. The report shall provide and address:

- 1) Respondent's compliance with anger management therapy and/or other mental health treatment plans devised by his providers;
- 2) The type of employment in which Respondent has been involved and Respondent's work schedule;
- 3) Respondent's future plans to work as a paramedic and the steps he has taken to prepare himself to return to practice; and
- 7) Any other information Respondent believes would assist the Board in its ultimate review of this matter.

b. Report From Anger Management Treatment Professional. Respondent shall cause to be submitted to the Board a report from an anger management treatment professional, whom Respondent must consult while this Order is in effect. The report shall be submitted to the Board on the first day of every month following the date of this Order, and at the time Respondent petitions for reinstatement. Each report shall provide and address:

- 1) In the first report, verification the anger management treatment professional has reviewed this Stipulation and Consent Order;
- 2) In the first report, identification of a plan of treatment devised for Respondent; any changes in the treatment plan shall be identified in a subsequent report;
- 3) A statement of the involvement between Respondent and the anger management treatment professional, including the number and frequency of meetings;

4) Respondent's progress with therapy and compliance with the treatment plan;

5) Respondent's awareness of his personal problems;

6) The anger management treatment professional's opinion as to Respondent's fitness for duty as a paramedic, including his capacity to understand his professional role and the boundaries of that role and his ability to distinguish between his personal and professional needs, identity, and behavior;

7) The anger management treatment professional's conclusion as to the need for continuing therapy and Respondent's discontinuance of therapy; and

8) Any other information the anger management treatment professional believes would assist the Board in its ultimate review of this matter.

c. Mental Health Evaluation. Within 60 days of petitioning for reinstatement, Respondent must undergo a mental health evaluation performed by a psychiatrist or a licensed psychologist. Respondent shall submit, or cause to be submitted, the credentials of the evaluator for review and preapproval by Board staff for purposes of this evaluation. The evaluation shall include the Minnesota Multiphasic Personality Inventory ("MMPI") and a minimum of one hour of interview. Respondent is responsible for the cost of the evaluation. The results shall be sent directly to the Board and shall provide and address:

1) Verification the evaluator has reviewed a copy of this Stipulation and Consent Order;

2) Diagnosis and any recommended treatment plan;

3) An interpretation of Respondent's MMPI test;

4) Respondent's fitness for duty as a paramedic, including his ability to handle stress;

5) Recommendations for additional evaluation or treatment; and

6) Any other information the evaluator believes would assist the Board in its ultimate review of this matter.

d. Compliance With Evaluator's Recommendations. Respondent shall comply with any recommendations for additional evaluation and treatment made by the mental health evaluator.

e. Reregistration Requirements. Respondent shall meet all reregistration requirements in effect at the time of his petition to remove the suspended status from his certificate, including but not limited to completing the appropriate application, paying the requisite fees, and completing any necessary continuing education requirements.

f. Waivers. At any time while this Stipulation and Consent Order is in effect and at the request of the Board, Respondent shall complete and sign health records waivers supplied by the Board to allow representatives of the Board to discuss Respondent's case with and to obtain written evaluations and reports and copies of all of Respondent's health, mental health, or chemical dependency records (if any) from his physician, mental health professional/therapist, chemical dependency counselor, or others from whom Respondent has sought or obtained treatment, support, or assistance.

g. Additional Information. Respondent shall provide any additional information relevant to his petition reasonably requested by the Review Panel.

10. The Board may, at any regularly scheduled meeting following Respondent's petition for reinstatement pursuant to paragraph 9 above, take any of the following actions:

- a. Issue an EMT-P certificate to Respondent;
- b. Issue an EMT-P certificate to Respondent with limitations upon the scope of Respondent's practice and/or with conditions for Respondent's practice; or
- c. Continue the suspension of Respondent's certificate upon his failure to meet the burden of proof.

VII.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

11. It is Respondent's responsibility to ensure all payments, reports, evaluations, and documentation required to be filed with the Board pursuant to this Stipulation and Consent Order are timely filed by those making the payment or preparing the report, evaluation, or documentation. Failure to make payments or file reports on or before their due date is a violation of this Stipulation and Consent Order. The information contained in the reports, evaluations, and documentation is confidential and shall be submitted to the Board by United States Mail, courier, or personal delivery only.

12. If Respondent fails to comply with or violates this Stipulation and Consent Order, Minnesota Statutes chapter 144E (2008), or Minnesota Rules chapter 4690 (2007), the Review Panel may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 (2008) or by bringing the matter directly to the Board pursuant to the following procedure:

- a. The Review Panel shall schedule a hearing before the Board. At least 30 days before the hearing, the Review Panel shall mail Respondent a notice of the violation(s) alleged by the Review Panel. In addition, the notice shall designate the time and place of the hearing. Within ten days after the notice is mailed, Respondent shall submit a written response

to the allegations. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

b. The Review Panel, in its discretion, may schedule a conference with Respondent prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

c. Prior to the hearing before the Board, the Review Panel and Respondent may submit affidavits and written argument in support of their positions. At the hearing, the Review Panel and Respondent may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Stipulation and Consent Order. The Review Panel shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Respondent has failed to submit a timely response to the allegations, Respondent may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Respondent waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

d. Respondent's correction of a violation before the conference, hearing, or meeting of the Board may be taken into account by the Board but shall not limit the Board's authority to impose discipline for the violation. A decision by the Review Panel not to seek discipline when it first learns of a violation shall not waive the Review Panel's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while Respondent's license is in a suspended status.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board shall dismiss the allegations. If a violation is proved, the

Board may impose additional discipline, including additional conditions or limitations on Respondent's practice, an additional period of suspension, additional conditions of reinstatement, or revocation of Respondent's license.

f. Nothing herein shall limit the Review Panel's or the Board's right to temporarily suspend Respondent's license pursuant to Minnesota Statutes section 144E.19, subdivision 3, based on a violation of this Stipulation and Consent Order or based on conduct of Respondent not specifically referred to herein.

VIII.

ADDITIONAL INFORMATION

13. Respondent waives the contested case hearing and all other procedures before the Board to which Respondent may be entitled under the Minnesota and United States constitutions, statutes, or rules.

14. Respondent waives any claims against the Board, the Minnesota Attorney General, the State of Minnesota, and their agents, employees, and representatives related to the investigation of the conduct herein, or the negotiation or execution of this Stipulation and Consent Order, which may otherwise be available to Respondent.

15. This Stipulation and Consent Order, the files, records, and proceedings associated with this matter shall constitute the entire record and may be reviewed by the Board in its consideration of this matter.

16. Either party may seek enforcement of this Stipulation and Consent Order in any appropriate civil court.

17. Respondent has read, understands, and agrees to this Stipulation and Consent Order and has voluntarily signed the Stipulation and Consent Order. Respondent is aware this

Stipulation and Consent Order must be approved by the Board before it goes into effect. The Board may either approve the Stipulation and Consent Order as proposed, approve it subject to specified change, or reject it. If the changes are acceptable to Respondent, the Stipulation and Consent Order will take effect and the order as modified will be issued. If the changes are unacceptable to Respondent or the Board rejects the Stipulation and Consent Order, it will be of no effect except as specified in the following paragraph.

18. Respondent agrees that if the Board rejects this Stipulation and Consent Order or a lesser remedy than indicated in this settlement, and this case comes again before the Board, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Consent Order or of any records relating to it.

19. This Stipulation and Consent Order shall not limit the Board's authority to proceed against Respondent by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Respondent which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

IX.

DATA PRACTICES NOTICES

20. This Stipulation and Consent Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5 (2008). Data regarding this action will be provided to data banks as required by Federal law or consistent with Board policy. While this Stipulation and Consent Order is in effect, information obtained by the Board pursuant to this Order is considered active investigative data on a licensed

health professional, and as such, is classified as confidential data pursuant to Minnesota Statutes section 13.41, subdivision 4 (2008).

21. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation.

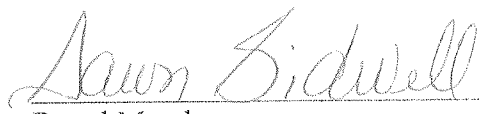
CONSENT:

MINNESOTA EMERGENCY MEDICAL
SERVICES REGULATORY BOARD
COMPLAINT REVIEW PANEL



DALE EICKELBERG, EMT-P
Respondent

Dated: 01-23 -, 2009



Board Member

Dated: Feb 10, 2009

ORDER

Upon consideration of the Stipulation, the Board **SUSPENDS** Respondent's EMT-P certification and adopts all other terms of the Stipulation on this 19th day of March, 2009.

MINNESOTA EMERGENCY MEDICAL
SERVICES REGULATORY BOARD

By: Katherine Burke Moore
KATHERINE BURKE MOORE
Executive Director

AG: #2363491-v1